Remarks

In view of the following remarks responsive to the Office action dated January 2, 2008, Applicant respectfully requests favorable reconsideration of this application.

In section 1 of the Office Action, the Office objected to claims 6, 15, and 16 because of the word "the" in the phrase "selecting one of the M alternative paths to reroute traffic between the source node and the destination node the if the M alternative paths exist".

Applicant has herein eliminated the extraneous word "the" in the preceding recitation. Applicant has also noted the same error in claims 17 and 18 and has corrected those claims also.

The Office further rejected claims 1, 4, 5, 13, and 14 under 35 U.S.C. § 102 (e) as being anticipated by Hu. Applicant respectively traverses.

The present invention is a method and apparatus for performing congestion control directly at the nodes of the network being affected by the congestion in a connection-oriented packet-switching network wherein, upon receipt of a notification of traffic congestion in a first path connecting a source node and a destination node, it is ascertained whether an alternative path exists with better throughput for routing traffic than the first path and an alternative path is selected, if one exists. In accordance with the language of claim 1, a path is a path between the source node and the destination node. Applicant has herein cancelled claims 1-4, 13, and 14 without prejudice, thus rendering the rejections of these claims moot at this time and leaving claim 5 (now rewritten in independent form) as the only remaining claim rejected as anticipated by Hu.

Claim 5 recites that the ascertaining of whether the alternative path exists with better throughput for routing traffic than the first path comprises determining whether an alternative path exists with an available cell rate that is greater than an available cell rate for the first path, the available cell rate for the first path measured when the traffic congestion in the first path is eliminated through cell rate control. The Office deems following section of paragraph 32 of Hu to teach this feature.

> "The policy database 210 may indicate that the path administrator 202 is to select some connections as candidates for hot rerouting (step 508). The first connections considered for selection may be those that have the lowest holding priority, as determined by consulting the policy database 210. The number of connections to hot reroute is determined dynamically, such that the total reserved bandwidth of the candidate connections is greater than the amount of bandwidth to be freed up so that particular trunk 208 is brought out of congestion".

This portion of Hu discloses a completely different rerouting policy than the one claimed in claim 5. Particularly, it is based on holding priority, rather than available cell rate. Furthermore, there is no disclosure of the holding priority being determined when the traffic congestion in the first path is eliminated.

Accordingly, claim 5 patentable distinguishes over Hu.

The Office further rejected claims 6, and 15-18 as anticipated under 35 U.S.C. §102 (e) by Roy.

Applicant respectfully traverses. Claim 6 includes the recitations of "receiving notification of traffic congestion at a node located in the first path connecting a source node and a destination node, wherein the first path is a non-real-time connection with a minimum cell rate (MCR) of R_{ACR} and a peak cell rate (PCR) of R_{PCR}". In Roy, the congestion detection and control is performed at the

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multimedia bridge 114, and particularly by the controller 201 of multimedia bridge 114.

Independent claims 6, 15, 16, and 17 clearly recite that the congestion detection and control is conducted at node located in the path between the source node and the destination node.

Roy does not meet this limitation of independent claim 6, and 15-18. Accordingly, Roy does not anticipate those claims.

Even further, dependent claims 16 and 18 further recite the scheme discussed in detail on pages 16-18 of first looking for paths with available resources able to satisfy the R_{ACR} for transferring traffic between the source and destination nodes and, if at least one such path is available, rerouting over that path, and, if not available, then looking for alternative paths with available resources able to satisfy a reduced cell rate of R'_{ACR} wherein R'_{ACR} is less than R_{ACR} but greater than the new ACR for the first path if rate control is instituted. Roy does not meet these recitations. Particularly, Roy discloses almost nothing about scheme in steps 407 through 409 for identifying and selecting alternative paths. Contrary to the Office's position, column 8, line 60 through column 10, line 40 of Roy primarily addresses the issue of scaling back the video (e.g., compressing it) in order to reduce congestion and merely mentions that scaling is done only if another path is not available. However, there is virtually no discussion of the technique for identifying an alternative path.

Accordingly, dependent claims 16 and 18 even further distinguish over the prior art record.

The Office further rejected dependent claims 7-9 and 11-12 under 35 U.S.C. §103(a) as unpatentable over Roy in view of Rabie.

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Applicant respectfully traverses. At a minimum, Rabie does not provide the aforementioned teachings missing from the primary reference, Roy, discussed above in connection with the independent claims from which claims 7-9 and 11-12 depend.

Accordingly, claims 7-9 and 11-12 patentably distinguish over the prior of record.

Finally, the Office rejected claim 10 under 35 U.S.C. §103(a) as unpatentable over Roy in view of Acharya.

Again, claim 10 distinguishes over the prior art of record for at least all of the reasons discussed above in connection with the independent claim, claim 6, from which it depends. Acharya does not provide the missing teachings.

In addition, Acharya cannot be used in a 103(a) rejection in the present case because Acharya is and has been owned at all times by the same assignee as the present application. Thus, in accordance with 35 U.S.C. §103(c), if Applicant in the present application establishes common ownership of the two applications, Acharya cannot be used in a rejection under 35 U.S.C. §103(a).

This duty can be satisfied by providing the with copies of the PTO assignment records. Accordingly, attached hereto as Exhibits A and B are the assignment records of the present application and of the Acharya reference showing that they are both owned by Lucent Technologies, Inc.

Conclusion

In view of the foregoing amendments and remarks, this application is now in condition for allowance. Applicant respectfully requests the Office to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

April 24, 2008   _/Joseph F. Posillico/_
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